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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/335,608	06/18/1999	TIMOTHY J. MOULSLEY	PHB-34-257	6666
24737	7590	11/17/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			HYUN, SOON D	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/335,608

Applicant(s)

MOULSLEY, TIMOTHY J.

Examiner

Soon D Hyun

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,2,4-7,9-17, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-17,22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 15 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitation added in the amendment "the header indicates both the packet data and speech data being in a single dual mode channel" is not supported by the specification.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1, 2, 4, 6, 7, 9-13, 15-17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamalainen et al (U.S. Patent No. 6,477,176) in view of Feldman (U.S. Patent No. 6,393,000).

Regarding claims 1, 2, 6, and 9-11, Hamalainen discloses a telecommunication system suitable for transmitting real-time data (speech) and non-real time packet data, comprising:

a first (a mobile communication system terminal, FIG. 1) and a second communication station (a MSC in FIG. 8a or a BSC in FIG. 8b);

a dual mode channel for communication of both the real time and the non-real time data from the first to the second station, wherein the first station comprises a first transceiver which is operable to transmit both the real-time and the non-real-time data, the second station comprises a second transceiver which is operable to receive the real-time and/or the non-real-time data (col. 3, lines 29-67), the first station further comprises a controller (10) for generating an output data stream (FIG. 3) comprising the real-time data (speech signal), the controller also allocating non-real-time packet data (data signal) to the output data stream when the data rate of the real-time is less than the full capacity of the dual mode channel, i.e., the terminal has no speech information to transmit (DTX);

the first station comprises a speech coding system (speech processing circuit 3) which prepares the speech data for transmission from a speech input (2); and

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the controller receives timing information from a VAD 4 (Voice Activity Detector) indicating the time of interruptions in the speech data stream (col. 3, lines 29-67).

Examiner understands that the reference teaches the real time and non-real time packet data each have a respective non-zero minimum bit rate and a combined bit rate less than a maximum value, i.e., the non-real time data and speech data are combined in a period of frames when speech is not available. Therefore, the real time and non-real time packet data each have a respective non-zero minimum bit rate in the period.

However, Hamalainen differs from the present application in that the controller receives the timing information from the VAD, while the present application receives it from the speech coding system.

Feldman teaches a speech coder (10 in FIG. 2) for a method of transmission of data during absence of speech signal, wherein a VAD is incorporated into the coder.

Those of skill in the art would have been motivated by Feldman to integrate the VAD (4) of Hamalainen into the speech coding system (speech processing circuit 3) to reduce a occupying space by combining the two circuitries.

Therefore, it would have been obvious to one having ordinary skill in the art for the controller of Hamalainen to receive the timing information from the speech processing circuit integrated with the VAD (speech coding system).

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Regarding claims 4 and 7, Hamalainen further discloses that the terminal comprises a buffer (9) for storing the non-real-time packet data for transmission.

Regarding claims 12 and 13, Refer to the discussion for the claim 1.

However, Hamalainen does not explicitly teach that the data from a computer (6) is multimedia. It will be apparent to those of skill in the art that the computer could transmit and receive multimedia such as image, video and data.

Therefore, it would have been obvious to one having ordinary skill in the art to transmit a first type (video) from the computer, second type (speech) from a microphone (1) and third type data (data) from the computer.

Regarding claim 15, Hamalainen discloses a receiving method (FIG. 2) comprising:

receiving a combined data from a transmission channel (FIG. 2);

demodulating the data stream by a receiver (13); reading frame header to determine which frames contain packet data and which frames contain speech data (FIG. 3);

reconstituting the speech and packet data; and

providing the speech data to a speech decoder(3) and packet data output signal at distinct output devices . See col. 4, lines 1-10.

Regarding claims 16 and 21, refer to the discussion for the claim 1.

Hamalainen further discloses that invention is generally implemented in GSM (TDMA). See col. 6, lines 62-65.

Regarding claim 17, refer to the discussion for the claim 16. According to the GSM standard, information is transmitted in a format of multiple time frames

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comprising a plurality of time slots (time segments). Therefore, real-time data (speech) is transmitted in the DTX mode and the non-real time data is transmitted when speech data is not available through the time slots, i.e., allocating the real-time data and non-real time packet data in variable proportions to multiple time segments within a time frame as recited in the claim

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamalainen et al (U.S. Patent No. 6,477,176) and Feldman (U.S. Patent No. 6,393,000) as applied to claim 1 above, and further in view of Gudmundson (U.S. Patent No. 5,341,397).

Regarding claim 14, refer to the discussion for the claim 1.

However, Hamalainen discloses that the invention is generally implemented in GSM (TDMA) and thus, does not explicitly teach that the system could be applicable on a CDMA transmission method. Gudmundson discloses a DTX on a CDMA transmission system.

Those of skill in the art would have been motivated to apply a CDMA protocol using a single spreading code to each mobile for the DTX of Hamalainen to take advantage of using the CDMA such as increasing the system capacity and reducing interference. Therefore, it would have been obvious to one having ordinary skill in the art to apply a CDMA protocol to the DTX of Hamalainen.

Response to Arguments

6. Applicant's arguments filed 08/10/2004 have been fully considered but they are not persuasive.

Regarding claims 1, 6, 7, 14, and 22, Applicant argues that the reference does not teach the limitation "the real time and non-real time packet data each have a respective non-zero minimum bit rate." As discussed above, Examiner understands that the reference teaches this limitation.

Regarding claim 12 and 13, Applicant argues that there is no support in the references. Refer to the claim rejection as discussed above.

Regarding claim 15, a new matter is added as discussed above.

Regarding claims 16 and 21, in a DTX mode of GSM, it would have been obvious to one having ordinary skill in the art that a data is inserted whenever the speech is not available in a time frame. Therefore, allocating non-real time data into more than a time slot in a time frame would have been obvious.

Regarding claim 17, in a DTX mode, it would have been obvious to one having ordinary skill in the art that allocating real-time and non-real time data in a variable proportions to multiple time segments within a time frame. Refer to the discussion above.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon D Hyun whose telephone number is 571-272-3121. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


S. Hyun
11/12/2004



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